

1 JUDGE CHRISTOPHER M. ALSTON

2 Chapter: 7

3 Hearing Location: Marysville, WA

4 Hearing Date: August 10, 2023

5 Hearing Time: 10:00 a.m.

6 Response Date: August 3, 2023

7

8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 In re:) Chapter 7
12 NINA KOSHUR,) Case No. 23-10708 CMA
13)
14 Debtor.) **TRUSTEE'S OBJECTION TO DEBTOR'S**
15) **MOTION FOR DISMISSAL OF THE**
16) **BANKRUPTCY CASE**

17 Trustee, DENNIS LEE BURMAN, objects to Debtor's motion for dismissal of her chapter
18 7 bankruptcy case for each of the following reasons:

19 1. There is no declaration or affidavit supporting the numerous allegations in Debtor's
20 motion.

21 2. Although Debtor has entitled her document "Notice and Motion for Voluntary
22 [D]ismissal of Chapter 7 Petition for Cause," it appears that Debtor has not given proper notice of
23 the hearing on the motion. First, Federal Rules of Bankruptcy Procedure (FRBP) 9006(d) implies
24 that two separate documents are necessary – a motion and a notice. ("A written motion ... **and**
25 notice of any hearing shall be served ..." (emphasis added)). Secondly, even if a combined
26 motion/notice is permissible under the court rules, Debtor's document is not the typical notice form
that has the date, time, and place of the hearing clearly shown in the body of the notice. This
information is only found in the heading at the top of page one. That seems insufficient.

27 3. Debtor readily admits that the bankruptcy estate includes an asset that can be sold by
28 Trustee to obtain funds to pay Debtor's creditors. She scheduled her land in Florida. It was
29 originally valued by Debtor at \$84,400.00. Debtor's motion now indicates that the value of the land

1 may well be \$200,000.00. After Trustee objected to Debtor's original exemptions, Debtor filed an
2 amended Schedule C, asserting an exemption under 11 USC §522, up to the applicable statutory
3 limit. As the land is not a homestead, the most that Debtor can assert as exempt (under subsection
4 (d)(5)) is \$15,425.00, resulting in \$184,575.00 as non-exempt. In her motion Debtor acknowledges
5 equity of \$184,000.00. Debtor also acknowledges that this would be sufficient to pay off all her
6 debts in full (originally scheduled to total \$88,828.84).

8 It is my job, as Trustee, in every bankruptcy case to pay creditors if I can. As indicated
9 above, that will certainly happen in this particular case. On the other hand, if this case is dismissed
10 there would be no obligation on the part of the Debtor to pay any of her creditors. Creditors might
11 not get paid at all. Even if Debtor makes some payments, there is no guarantee that all creditors
12 will be paid or that they would be paid in full.

14 4. Debtor suggests on pages 3 and 5 in her motion that she has excess monthly income that
15 she can use to pay her creditors. Trustee has no objection to Debtor moving to convert her
16 bankruptcy to a Chapter 13 case. In fact, Trustee understands that she has a statutory right to so
17 convert. Debtor can then propose a plan to pay her creditors and thus subject herself to the
18 supervision of this Court and the Chapter 13 Trustee's Office. This would protect her creditors as
19 compared to an order of dismissal which would not.

21 DATED: July 17, 2023
22
23

24 /s/ Dennis Lee Burman
25

26 DENNIS LEE BURMAN, WSBA #7875
Trustee in Bankruptcy